

### REMARKS

Applicants appreciate the courtesy extended by the Examiner to co-inventor Andrew J. Curello and to Applicants' attorneys during the interview on July 15, 2008.

Claims 1-7, 8-16, 19, 20, as amended, and new claims 103-111 remain in the present application for the Examiner's review and consideration. Applicants appreciate the allowance of claims 1-7. Claims 17, 18, 21-102 are cancelled.

New claims 103-104, 105-110 and 111 correspond substantially to original claims 28-29, 31-36 and 39, respectively, but are now directed to a fuel supply. Support for these amendments is found *inter alia* in the originally filed claims and the originally filed specification at page 4, lines 20-23 and page 18, line 4 to page 19, line 3. Thus, no new matter has been added. Furthermore, Applicants believe that new claims 103-111 are all encompassed within elected Group I, because they all are drawn to a first fuel supply, as defined in the Restriction Requirement dated March 8, 2007, and are dependent directly or indirectly from elected independent claim 8.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

#### Rejections under 35 U.S.C. § 102(e)

Claims 8, 12, 13, 15, 16, and 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by either U.S. Patent Appl. Publication No. 2003/0082426 ("the '426 reference") to Bullock *et al.* or U.S. Patent Appl. Publication No. 2003/0082416 ("the '416 reference") to Bullock *et al.*, collectively the "Bullock references." Applicants respectfully traverse the Examiner's rejection.

Amended claim 8 now recites, in part, "data selected from the group consisting of a shut-down sequence and hot swap procedure." The originally filed specification relates that the shut-down sequence and hot swap procedure are higher-order data elements comprising instructions for the pump 14 and controller 18, 118. See, for example, page 4, lines 20-23 of the originally filed specification. More specifically, the hot swap procedure comprises executable computer code language that directs a controller to switch to an alternate power source when the cartridge is changed. See, for example, page 18, lines 15-24 of the originally filed specification.

Similarly, a shut-down sequence comprises executable code which may instruct a pump for pumping fuel to the fuel cell to shut down in accordance to a predetermined sequence when a trigger event occurs. See, for example, page 18, lines 25-31 of the originally filed specification.

The Bullock references make no disclosure whatsoever of a “shut-down sequence” or “hot swap procedure,” as recited in pending independent claim 8. Moreover, a person having ordinary skill in the art would not reasonably construe any of the conventional data elements, disclosed in the Bullock references, to be equivalent to such higher-order data elements as “shut-down sequence” or “hot swap procedure.” Paragraph [0039] of the Bullock references discloses data structure information, *i.e.* addresses of the various types of data.

Paragraphs [0040]-[0041] and FIG. 7 of the Bullock references disclose keying information, *i.e.*, information used to accept or reject the fuel cartridge based on, for example, system requirements and/or safety regulations including, for example, data about generic fuel type, specific fuel type, the byproduct, or safety information. Such data is dissimilar from the recited “shut-down sequence” and “hot swap procedure” data but also is dissimilar from intellectual property information such as patent numbers and registered trademarks.

Paragraphs [0043]-[0045] and FIGS. 8-9 of the Bullock references disclose fuel management data, *e.g.*, initial fuel level, current fuel level, and low fuel warning threshold. Paragraphs [0046]-[0049] and FIG. 10 of the Bullock references disclose non-operational data such as marketing and maintenance information, which may be reviewed by the manufacturer or other entity subsequent to removal of fuel cell cartridge from a host device. Paragraphs [0050]-[0054] and FIG. 11 of the Bullock references disclose various type of trigger data, *e.g.* keying data and fuel management data, which trigger various functions performed by the host device. Because these cited paragraphs disclose conventional data elements, a person having ordinary skill in the art would not reasonably construe said conventional elements to be comparable to “shut-down sequence” or “hot swap procedure” data as recited by claim 8.

Given that neither the ‘426 reference nor the ‘416 reference discloses each and every element of independent claim 8, it is patentable over those references. Claims 12-13, 15-16 and 19, all depend upon allowable claim 8 and add further limitations thereto, and therefore are patentable for that reason alone. New dependent claims 103-111, which are not encompassed

within the scope of the outstanding Office Action, would be patentable for the same reason. Applicants reserve the right to further support the patentability of these dependent claims, should that become necessary.

In view of the aforementioned remarks, Applicants respectfully request that the rejections under Section 102(e) be withdrawn.

### **Rejections under 35 U.S.C. § 103(a)**

Claims 9-11, 14 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either the '426 reference or the '416 reference, each taken in view of U.S. Patent Appl. Publication No. 2002/0154915 ("the '915 reference")<sup>1</sup> to Bullock *et al.* and U.S. Patent Appl. Publication No. 2003/0138679 ("the '679 reference") to Prased *et al.* Applicants respectfully traverse the Examiner's rejection.

Claim 8, which is not rejected under 35 U.S.C. § 103(a), remains patentable because the deficiencies of the Bullock references are not overcome by the '915 reference and the '679 reference. Claims 9-11, 14 and 20, all depend from allowable claim 8 and add further limitations thereto, and therefore are patentable for that reason alone. New dependent claims 103-111, which are not encompassed within the scope of the outstanding Office Action, would be patentable for the same reason. Applicants reserve the right to further support the patentability of these dependent claims, should that become necessary.

In view of the aforementioned remarks, Applicants respectfully request that the rejections under Section 103(a) be withdrawn.

### **Conclusion**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal

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<sup>1</sup> The present May 16, 2008 Office Action simply mentions a '915 publication and does not provide full bibliographic information. However, based on the content of the March 8, 2007 Office Action, Applicants assume that the full bibliographic information of the '915 publication is as mentioned therein and reproduced above.

communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

A fee of \$810 is due for the attached Request for Continued Examination. Applicants believe that no other fees are due in connection with the submission of this Response. However, if any other fees are due, the Commissioner may charge appropriate fees to The H.T. Than Law Group, Deposit Account No. 50-1980, and if any extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a).

Respectfully submitted,

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Attachments:

Request for Continued Examination Transmittal Form (SB-30)